

## DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER RAPER  
COMMISSIONER ANDERSON  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL**

**FROM: DAPHNE HUANG  
DEPUTY ATTORNEY GENERAL**

**DATE: JANUARY 14, 2016**

**SUBJECT: I-WIRELESS, LLC'S ETC APPLICATION, CASE NO. WIR-T-15-01**

On October 20, 2015, i-wireless, LLC (the Company) applied to the Commission for an Order designating it as an eligible telecommunications carrier (ETC), to provide Lifeline service to qualifying Idaho consumers. The Company filed 15 exhibits with its Application. On January 8, 2016, the Company filed a Letter with supplemental information, and on January 13, 2016, the Company filed a Notice of Mailing to Tribes. The Company requested that the matter be processed by Modified Procedure.

### THE APPLICATION

i-wireless provides commercial mobile radio service (CMRS) throughout the country, and prepaid wireless telecommunications services using the Sprint Spectrum, L.P. network “on a wholesale basis to offer nationwide service.” Application at 2-3. Using Sprint’s network, the Company operates as a Mobile Virtual Network Operator (MVNO). *Id.* at 3. The service areas for which the Company requests designation are throughout Idaho, as set forth in Exhibit 14 to the Company’s Application. *Id.* at 21-22. The Company asks that its designation include authority to participate in and receive reimbursement from the Idaho Telephone Service Assistance Program (ITSAP). January 8, 2016 Letter.

The Company notes that it has requested and been designated as an ETC in Arkansas, Arizona, California, Colorado, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Washington, West Virginia, and Wisconsin, and by the FCC in Alabama, Connecticut, Delaware, District of Columbia, Florida,

new Hampshire, New York, North Carolina, Tennessee, and Virginia. Application at 3, *citing In the Matter of Federal-State Joint Board on Universal Service, i-wireless, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier*, WC Docket no. 09-197, Order, DA 12-934 (rel. June 13, 2012). At the time i-wireless filed its Application here, the Company also had applications pending in Hawaii, Massachusetts, New Jersey, Oklahoma, and South Dakota. Application at 3. The Company notes that it has never had a petition for ETC designation denied. *Id.*

The Company asserts this Commission has authority to designate it an ETC under federal law, and notes that the Commission has designated numerous carriers – including wireless carriers – as ETCs in Idaho. *Id.* at 14-15, *citing* 47 U.S.C. § 214(e); *see also Idaho Code* § 62-615(1); Order No. 29841. The Company acknowledges that, under 47 U.S.C. § 214(e)(1) of the federal Telecommunications Act, ETCs must offer services, at least in part, over their own facilities. Application at 15. However, i-wireless petitioned to the FCC and was granted forbearance with respect to “the facilities-based service requirement Lifeline-only ETC designation.” *Id.*; Exh. 10 (*i-wireless Forbearance Order*). Accordingly, i-wireless asserts it is entitled to ETC designation under 47 U.S.C. § 214(e)(2), which authorizes state commissions to designate wireless ETCs. Application at 15-16, *citing Federal-State Joint Board on Universal Service, First Report and Order (“USF Order”)*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997).

Given the FCC’s forbearance as to the “own facilities” requirement of Section 214(e)(1), the Company contends it satisfies the requirements for designation as an ETC. Application at 16. Specifically, the Company asserts that it: (1) is a common carrier; (2) commits and is able to provide services supported by federal universal support mechanisms; (3) will advertise the availability of supported services; (4) commits to provide service throughout its service area in Idaho;<sup>1</sup> (5) is capable of remaining functional in emergency situations; (6) is committed to consumer protection and service; (7) describes its local usage plan, which it

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<sup>1</sup> i-wireless asserts it is not required to submit a five-year network improvement plan as part of its Application for designation as an ETC. Application at 22, *citing In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training (“Lifeline and Link Up Reform Order”)* at ¶ 386, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012).

contends will meet or exceed incumbent local exchange carrier (ILEC) plans;<sup>2</sup> (8) will promote the public interest, convenience and necessity; (9) will comply with requirements imposed by this Commission for ETC status, including reporting requirements;<sup>3</sup> and (10) has provided notice of its Application to the affected tribal governments and tribal regulatory authorities. *Id.* at 18-28; Notice of Mailing to Tribes. The Company also states it will comply with applicable ITSAP regulations, including but not limited to required monthly reporting and execution of a Memorandum of Understanding with the Department of Health and Welfare. January 8, 2016 letter.

The Company asserts that granting it ETC designation will “promote competition and innovation, and spur other carriers to target low-income consumers,” and “help assure that quality services are available at ‘just, reasonable, and affordable rates’” as contemplated in the Telecommunications Act. Application at 28. Granting it ETC designation will, the Company states, “further the public interest by providing Idaho consumers, especially low-income consumers, with low prices and high quality services.” *Id.* at 26. “[D]esignating i-wireless as an ETC would significantly benefit low-income consumers eligible for Lifeline service in the State of Idaho – the intended beneficiaries of universal service.” *Id.*

#### **STAFF RECOMMENDATION**

Staff recommends that the Commission process i-wireless’s Application under Modified Procedure with a 21-day comment period.

#### **COMMISSION DECISION**

Does the Commission wish to process i-wireless’s Application under Modified Procedure with a 21-day comment period?

/s/ *Daphne Huang*

Daphne Huang  
Deputy Attorney General

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<sup>2</sup> i-wireless notes it is no longer required to demonstrate that it offers a local usage plan “comparable” to that of the incumbent local exchange carrier, nor certification that the FCC may require it to provide equal access to long-distance carriers. Application at 23-24, *citing Lifeline and Link Up Reform Order* at 208; revised 47 C.F.R. § 54.202(a).

<sup>3</sup> The Company requests a waiver from the requirement that it submit a two-year network improvement and maintenance plan based on high-cost support, as it is not seeking high-cost support for its wireless service. Application at 25, *citing* Order No. 29841, Appendix § D.